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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,179	11/11/2003	Thomas H. Barth	03151371	4648
26565	7590	05/19/2005	EXAMINER	
MAYER, BROWN, ROWE & MAW LLP 190 SOUTH LASALLE ST CHICAGO, IL 60603-3441			D ADAMO, STEPHEN D	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/705,179	Applicant(s) BARTH ET AL.	
	Examiner Stephen D'Adamo	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The amendment filed March 8, 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

“...from the support flanges *a preselected length which is greater than the length of the support flanges...*” (page 3, line 15).

Applicant is required to cancel the new matter in the reply to this Office Action.

Drawings

2. The drawings were received on March 8, 2005. These drawings are accepted.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burleigh (6,382,722) in view of Sebel (4,341,419).

Burleigh discloses a child safety seat that can be used with an aircraft passenger seat comprising a one-piece, shell-like body 10 having a first, upwardly extending shell portion 18 defining a first surface shaped to support a child's upper body part and a second shell portion 12 extending downwardly from the first shell portion, which has a

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second surface to support a child's lower body part, as seen in Figures 1 and 8. Integral support flanges 16 extend upwardly and outwardly from the first and second support surfaces to provide support against lateral movement of a child's body as seen in Figures 2 and 9. First and second side walls 16 are formed integrally with the first and second shell support flanges and extend outwardly and downwardly. Openings 20 are extended through the second wall side wall at a preselected distance away from the first child support surface, and can enable an aircraft safety belt to be passed through to secure the shell to an aircraft seat as seen in Figure 1 and 2. Burleigh also includes a restraint harness 30 and 32, which is mounted on the shell through opening as seen in Figures 8 and 9. However, Burleigh fails to expressly disclose that the support flanges are at an obtuse angle with respect to the support surfaces and that the side walls form an acute angle with respect to the support flanges. Yet, Sebel teaches of stackable chairs including support flanges 19 and 20. The side walls merge into the armrests 8 and 9 which, "are each rolled over outwardly to form downwardly opening troughs 23 and 24 respectively" (col.3, lines 15-16). As seen in Figure 5, "the armrests are directed outwardly from the seat at a small angle [obtuse angle relative to the seat surface]" (col.3, lines 10-12). Sebel further teaches that two chairs are stacked above one another and, "the armrests of the lower chair are aligned with the corresponding troughs 23 and 24 of the upper chair" (col.3, lines 52-54). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the support flanges and side walls of Burleigh with an obtuse and acute angle, as seen in Figure 5 of Sebel, for enabling two child safety chairs to be stacked one above another.

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Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burleigh (6,382,722) in view of Sebel (4,341,419) and in further view of Perdelwitz, Jr. et al. (4,891,454).

Burleigh and Sebel have been described above. Burleigh and Sebel show all of the teachings of the claimed invention. However, both Burleigh and Sebel fail to expressly disclose a cushion that is held in place by the restraint harness. Perdelwitz, Jr. discloses a cushion 20 that is located on the first and second surfaces and is held in position by a restraint harness 38 as seen in Figures 1-3 (Abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the child seat of Burleigh and Sebel, with a cushion as shown by Perdelwitz, Jr. in order to provide a disposable cushion for the child seat.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoolahan (5,957,537) in view of Burleigh (6,382,722) and Sebel (4,341,419).

Hoolahan discloses a restraining device for children including a child seat that can be used with an aircraft passenger seat comprising a one-piece, shell-like body 34 having a first, upwardly extending shell portion defining a first surface shaped to support a child's upper body part and a second shell portion extending downwardly from the first shell portion, which has a second surface to support a child's lower body part, as seen in Figure 5. Integral support flanges extend upwardly and outwardly from the first and second support surfaces to provide support against lateral movement of a child's body. First and second side walls are formed integrally with the first and second shell support flanges and extend outwardly and downwardly. Hoolahan also includes a restraint harness 30 and 32, which is mounted on the shell through opening. Furthermore, a

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cushion 36 is located on the first and second surfaces and is held in position by a restraint harness 38, also seen in Figure 5.

However, Hoolahan fails to expressly disclose that the support flanges are at an obtuse angle with respect to the support surfaces and that the side walls form an acute angle with respect to the support flanges. Yet, Sebel teaches of stackable chairs including support flanges 19 and 20. The side walls merge into the armrests 8 and 9 which, "are each rolled over outwardly to form downwardly opening troughs 23 and 24 respectively" (col.3, lines 15-16). As seen in Figure 5, "the armrests are directed outwardly from the seat at a small angle [obtuse angle relative to the seat surface]" (col.3, lines 10-12). Sebel further teaches that two chairs are stacked above one another and, "the armrests of the lower chair are aligned with the corresponding troughs 23 and 24 of the upper chair" (col.3, lines 52-54). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the support flanges and side walls of Hoolahan with an obtuse and acute angle, as seen in Figure 5 of Sebel, for enabling two child safety chairs to be stacked one above another.

Hoolahan also fails to expressly disclose opening extending through the side walls. Yet, Burleigh teaches of a one-piece, shell-like child safety seat including openings 20 extended through the second wall side wall at a preselected distance away from a first child support surface. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the child seat of Hoolahan with opening 20, as taught by Burleigh, for enabling an aircraft safety belt to be passed through to secure the shell to an aircraft seat.

Response to Arguments

4. Applicant's arguments with respect to claims 1-3, regarding Burleigh in view of Sebel, have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that Burleigh fails show side walls and support flanges extending from the support surfaces. Further, Applicant points out that the previous office action identified the side wall and the support flanges with reference number 16. However, The Office believes that Burleigh does teach of sidewalls and integral support flanges, as claimed. Both the side wall and support flange was given a similar reference since Burleigh failed to include two distinct references. Regarding the claimed invention, Burleigh discloses first and second support flanges extending upward and outward from the first and second support surfaces. The support flanges are seen in the Figures as the inside wall. Further, Burleigh teaches of first and second side walls formed *integrally* with the first and second shell support flanges extending outward and downward from the support flanges. The side walls are seen in the Figures as the outside wall. Sebel further teaches of the stackable feature, thus modifying the side wall of Burleigh.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen D'Adamo whose telephone number is 703-305-8173. The examiner can normally be reached on Monday-Thursday 6:00-3:30, 2nd Friday 6:00-2:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SD

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May 12, 2005


Peter M. Cuomo
Supervisory Patent Examiner
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